

JULY 20, 2010

COMMITTEE OF THE WHOLE

PRESENT Willie Adams, Jr., Mayor  
Mayor Pro Tem Christopher Pike  
City Commissioners: Jon Howard, Dorothy Hubbard, Roger Marietta,  
Bob Langstaff, Jr., and Tommie Postell  
City Manager: Alfred Lott  
City Attorney: Nathan Davis

Mayor Adams called the meeting to order at 8:33 a.m.

APPOINTED OFFICIALS

Mayor Pro Tem Pike discussed information as noted on page four pertaining to the Commission appointing an Asst. City Attorney. In reply to Mayor Adams, Mayor Pro Tem Pike gave a brief summation with the reason for the proposed changes to the City Charter to include the appointment of an Asst. City Attorney as is done with the Asst. City Clerk. He suggested that the Charter does not reflect the way the City operates and this will assist with any situation, such as the one that recently occurred. In reply to Commissioner Postell, he again suggested that the change will reflect the way the City currently operates.

Mr. Davis discussed the memo dated June 4, 2010 pertaining to the City Charter and the appointment of an Asst. City Attorney, and, appeal process for appointed officials. In reply to Mayor Adams, he explained the appeals process to include the employee appealing to the City Commission, with the Commission having the option to set a committee to handle grievances involving staff. He stated that this falls in line with the way Federal Judges are impeached and the formation of a committee would be at the discretion of the Board. Mayor Adams clarified that if there is a grievance, the Commission would either hear the complaint of the employee or set up a committee to hear such grievance; Mr. Davis agreed.

Commissioner Hubbard commented on changing procedures in past years and if the Charter was not changed, this will make it right. She expressed concern about the proposed committee and/or the Commissioners not hearing the appeal, or having employees hearing the facts and then making a recommendation to the Commission. She mentioned that there are several processes that can be in place to handle this.

Mayor Adams asked if this will make the Commission more of an administrative rather than policy making Commission and if there would be a conflict. Mr. Davis opined that the Charter is broad as it pertains to the powers of the City Manager, which does not extend to appointed officials and a process could be put in place for an appeal by appointed officials, etc. Mayor Adams clarified that the Commission or a committee appointed by the Commission could hear the appeal; Mr. Davis agreed

Commissioner Howard asked the process of hiring an Asst. City Attorney and Mr. Davis' role. Mr. Davis asked that he have input with reviewing the applications and that he

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provide input in reviewing candidates. Commissioner Howard agreed with the change as long as politics are kept out of the selection process.

Mayor Adams expressed concern about the Commission's lack of legal expertise and judgement in making proper decisions, specifically in the hiring of an attorney. He agreed that if the City Attorney is in the equation, there would not be a problem, but if not, the Commission may be limited in judging those in the legal field.

Commissioner Langstaff stated that the only thing being proposed today is adding an Asst. City Attorney to the Charter.

Commissioner Hubbard stated that in addition to the people who are appointed, we are taking on the employees who are supervised by the appointed officials. Mr. Davis agreed, adding that he will send a memo if this is approved today. Commissioner Hubbard discussed the need to hear facts and everyone on the Commission having the ability to discern right from wrong. Mayor Adams agreed that the Commission would have the ability to do this adding that the Commission would rely on facts being presented by the City Attorney if there is a problem. Commissioner Hubbard stated that in past situations in which she was involved, legal advice was included and/or leading the charge.

Commissioner Postell noted page five and asked for clarification. Mr. Davis discussed appointed officials as opposed to other employees and the judgment of the Commission controlling since all work 'at will' with there being no reason for an appeals process for appointed officials. Commissioner Postell suggested working on this more and asked if the process in place is legal. Mr. Davis replied that things in place are legal, adding that the code calls for an appeals process for other employees. Commissioner Postell stated that he sees a conflict and asked who will be in charge of whom. Mr. Davis stated that the Commission will be in charge of appointed officials and staff working under them will be the ones who will have the appeals process, if there is a legitimate reason for an appeal. Commissioner Postell expressed concern, adding that this suggests that the Commission will handle petty disputes if it is adopted. Mr. Davis agreed adding that the Commission will hear and/or appoint someone to hear the appeals process.

Mayor Adams asked if the changes are made as proposed, will they negatively impact on the 'at will' ability to dismiss employees. Mr. Davis stated that it will formalize the 'at will' relationship.

Commissioner Postell asked who is in charge of the Clerk's office. Mr. Davis stated that the Commission is in charge of that office and the proposed change is memorializing how the process is done. Commissioner Postell asked if Ms. Tolbert is in charge of the office or the Asst. Clerk or do they both have equal powers. Mr. Davis stated that both have equal powers, but the Commission controls the office. Commissioner Postell suggested that someone should be in charge, e.g., if Ms. Tolbert tells the Asst. Clerk to do something, the Asst. Clerk can refuse since she has as much power as Ms. Tolbert. He

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agreed that there needs to be changes and asked that it be looked at further so that the Commission does not have to referee disputes and/or hire consultants to handle disputes. He asked for more research on this.

Mayor Pro Tem Pike asked if the document formalizes what is being done and is in line with what is currently being done. Mr. Davis agreed, adding that a sub-committee will be appointed by the Commission. He asked if the Commission would at least consider approving the charter change to appoint an Asst. City Attorney.

Commissioner Postell stated that he is not in a hurry to do this unless it is done right.

Commissioner Langstaff moved to approve adding the Asst. City Attorney to the list of appointed officials, seconded by Commissioner Marietta. In reply to Mayor Adams, Mr. Davis agreed that the other changes can be done by ordinance, but that he unsure if he will have the information ready by the night meeting.

Commissioner Hubbard asked Mr. Davis that when during his review/research, he ensures that the person in charge of the office has the authority to run the office and the appointed Assistant will report directly to the Attorney and City Clerk, which will assist with resolving squabbles before it reaches the Commission. Mayor Adams agreed, stating that the word 'assistant' means the person reports to the Dept. Head.

Hearing no further discussion the motion carried 6-1 with Commissioner Postell voting no.

## APPOINTMENTS

1. One appointment to Stadium Authority for four-year term expiring June, 2014

Commissioner Postell moved to approve the reappointment of Jack Hall, seconded by Commissioner Howard. Mayor Adams asked the Clerk to confirm that Ducky Walls still lives in Albany. Hearing no discussion the motion unanimously carried.

2. One appointment to Albany Housing Authority to for five-year term expiring June, 2015. (Mayor's Appointment)

Mayor Adams asked that Linda Coston be reappointed to the following:

3. Two members to the Aviation Commission for three-year terms expiring July, 2013

Commissioner Postell moved to approve the reappointment of Eugene Jeter and William Underwood, seconded by Commissioner Marietta; the motion unanimously carried.

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James Taylor, Asst. City Manager, discussed information as noted on page 21 pertaining to the following and advised that the Commission is asked to appoint three people.

### 4. Appointments to the TAD Advisory Committee

Mayor Adams asked if he is appointed and the Mayor Pro Tem is the person the Mayor asked to be the representative, will this yearly change be a problem since the Mayor Pro Tem rotates amongst the Commissioners. Mr. Taylor asked that there be consistency.

Commissioner Howard asked the boundaries of the TAD in east Albany. Mayor Adams asked how this relates to the appointment of the Committee. Commissioner Howard asked the geographic boundaries in order to select citizens. Mr. Taylor stated that the boundaries extends to Oglethorpe and includes WalMart and undeveloped/blighted areas.

Mayor Adams asked if there are time constraints. Mr. Taylor stated that they would like to have a decision in the near future. Mayor Adams stated that the issue is what citizen the Commission would appoint and suggested that the Mayor and/or City Manger and/or their representative be considered. He asked the Commission to think of a citizen and by the fourth Tuesday night have a name for review/discussion for a vote. He again suggested the Mayor and City Manager and/or their designee be considered as two of the three appointees.

Commissioner Hubbard asked whether or not a person should come from the TAD area, Commissioner Howard replied that they need to be knowledgeable and informed, and suggested that they can come from any ward and not necessarily within the confines of the TAD. Mayor Adams agreed that the person should be an astute business person with knowledge of taxes, etc., to be helpful on the committee.

Commissioner Postell moved to appoint the Mayor and City Manager and to appoint a citizen at a later date, seconded by Commissioner Hubbard; the motion unanimously carried. Mayor Adams suggested that the Commission discuss and have a name by the night meeting.

## TRAVEL

Commissioner Pike moved to approve the following, seconded by Commissioner Howard. Commissioner Postell asked Commissioner Marietta if he has information from his MEAG trip. Commissioner Marietta stated that he will provide via email.

1. Mayor W. Adams – cancellation - GMA Annual Conference, Savannah, GA; June, 2010 - \$219.37
2. Mayor Pro Tem C. Pike – GMA Annual Conference, Savannah, GA; June 25-28, 2010 - \$1,196.40
3. Commissioner R. Marietta – GMA Annual Conference, Savannah, GA; June 25-27, 2010 - \$825.00

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4. Commissioner R. Marietta – MEAG Power 2010 Annual Meeting, Amelia Island, FL; July 11-14, 2020 - \$890.72
5. S. Tolbert, City Clerk – GMA Annual Conference, Savannah, GA; June 26-27, 2010 - \$497.50
6. S. Tolbert, City Clerk – GMC fall training conference, Athens, GA; Sept. 12-15, 2010
7. S. Kelly, Asst. City Clerk – GMA Annual Conference, Savannah, GA; June 25-27, 2010 - \$1,195.00

Hearing no further discussion, the motion unanimously carried.

ITEMS FOR FUTURE AGENDA

Commissioner Howard asked the balance for KADB and if there will be a budget amendment. Mayor Adams clarified that the County reduced money to KADB and Commissioner Howard wants to know if the City has to make adjustments with our budget and/or what the City will do regarding KADB. Mr. Lott stated that KADB gets in-kind services from the City, which was the arrangement in accordance with the service delivery agreement. He advised that the County uses money to pay salaries, etc., and that any money to make up the shortfall from the County would have to be through a budget amendment. Wes Smith, Asst. City Manager, stated that the cut was minimal. Commissioner Howard asked staff to bring this information back so that the City can do its part. Mayor Adams stated that the City is doing its part. Mr. Lott agreed, adding that the County is falling short with their money. Commissioner Howard asked the amount of the 8% that was cut and suggested the City look at funding. Mayor Adams disagreed with taking up the slack and suggested that it is a dangerous pitfall, e.g., if they are cut again in the future, the City cannot make up the difference.

Commissioner Hubbard asked if the contract is being followed as it relates to the intergovernmental agreement and/or if any part has been breached and when the contract will be renegotiated; she asked that this be investigated. In reply to Mayor Adams, Mr. Davis agreed with Mr. Lott that it is part of the agreement adding that he does not know how the County would not have to completely fund its portion of KADB. Commissioner Hubbard said she has nothing against KADB, but the Commission needs to ensure that the contract is followed. Commissioner Postell asked how much money has been allocated to KADB, stating that the County has reserves that they have not used. He commented on money for gateways with the county funding. Mayor Adams explained that the money came from GDOT and it cannot be used for administrative purposes. In reply to Commissioner Postell on how much money is given, Mr. Lott stated that they receive in-kind services and no money.

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## **PUBLIC SAFETY MATTERS**

### ALCOHOL LICENSE APPLICATION

Mayor Pro Tem Pike moved to approve the following, seconded by Commissioner Postell; the motion carried 6-1 with Commissioner Howard voting no.

1. Softtales Saloon, 2900 Sylvester Rd., R. Clapp/Agent; Consumption

### ALCOHOL LICENSE APPLICATION TRANSFER

Commissioner Postell moved to approve the following, seconded by Commissioner Hubbard; the motion carried 6-1 with Commissioner Howard voting no.

1. Davis Grocery, 2401 MLK Drive; J. Davis/Agent; transfer ownership from R. Gray; Beer

### ITEMS FOR FUTURE AGENDA

Mayor Pro Tem Pike asked the process for getting a study for a stop sign at Carver Pool.

## **PUBLIC WORKS MATTERS**

### HOLLOWAY-MERCER STORM SEWER OUTFALL

Bruce Maples, Engineering Director, distributed additional maps and discussed information as noted on page 55 pertaining to the options for Holloway sewer.

Discussion followed with Commissioner Postell asking for clarification on having a pond in the Heritage House location. Mr. Maples stated that it would be south of Whitney at a cost of \$36.0 million, which is option 2. Commissioner Postell expressed concern on putting in another pond.

Additional discussion followed with Mr. Maples clarifying the location, including the area near Phoebe Hospital. Commissioner Marietta asked about fishing in ponds and if there is mosquito control. Mr. Maples stated that DNR stocks the ponds and that the County treats the ponds. Commissioner Marietta stated that ponds are not necessarily a detrimental thing.

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Regarding options 2 and 3, Commissioner Langstaff asked about separating the CSO. Mr. Maples stated that option 2 includes separation and reduces the size of the outfall. Referring to page 56, Rod Hutchinson, Civil Engineering Superintendent, reported that the statement is incorrect - it does provide for the separating. Commissioner Langstaff asked if options 1 and 2 provide for separation; Mr. Maples agreed. Regarding federal mandates to do this, Mr. Maples stated that we are not under federal mandates and discussed the process of separation. Phil Roberson, Public Works Director, stated that we are not under a mandate, but the goal is to separate. Regarding Option 3, Commissioner Langstaff discussed the cost. Mr. Maples referred to the map and explained. Discussion followed with Mr. Maples reviewing the maps that were distributed, construction costs, etc., pertaining to ponds.

Mayor Adams stated that this is not for action, but is for the Commission to review.

Commissioner Hubbard asked how long can we wait. Mr. Maples explained that construction plans are dated in the mid 1940's and the infrastructure is antiquated. Commissioner Hubbard asked if it was in 1998 that the project estimate was \$50.0 million. Mr. Maples replied that they re-ran the numbers and that the cost is still approximately \$50.0 million. Commissioner Hubbard asked if there is money in SPLOST III. Mr. Maples stated that \$28,000 is available. Commissioner Hubbard asked if this was on the SPLOST referendum and if there are funds in other SPLOSTs. Mr. Maples replied that there are funds in SPLOST V and that other SPLOST funds were reallocated and/or started the project. He said it may be \$8.0 million in SPLOST V. Commissioner Hubbard asked Mr. Davis if funds can be re-allocated. Mr. Davis advised that money can be moved as long as the projects were on the ballot. Commissioner Hubbard verified that money can be moved that is on the SPLOST; Mr. Davis agreed. Mr. Hutchinson explained that they received federal monies and funds were moved to an infrastructure project in order to complete another project.

Further discussion followed with Commissioner Marietta asking about the lack of a contract for SPLOST IV, even though storm water drainage was on the list. Mr. Hutchinson agreed and explained that the County put in money for 2<sup>nd</sup> Avenue and miscellaneous money was given to the City, but there was not enough money for completion; the County did not allow a transfer so the money, approximately \$650,000, reverted back to the County.

Mayor Pro Tem Pike discussed Holloway Lake and the time consuming effort to keep it clean. He said he cannot agree with putting a holding pond in a neighborhood as it will add more upkeep. He asked to see other funding sources and if there are other monies than SPLOST. Mr. Lott stated that they are looking at federal funding. Mr. Smith stated that \$10.0 million was requested through the federal lobbyist. Mayor Pro Tem Pike mentioned a department of the state that makes loans. Mr. Roberson discussed GEFA and advised that there are no enterprise funds for storm water. Mr. Maples agreed, adding that they are working on the process to get this established. Mr. Lott stated that a goal of Mr. Maples is to present a plan for storm water to the Commission.

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Commissioner Postell agreed with Mayor Pro Tem Pike and commented on the length of the ongoing project (64 years), adding that there has to be money to solve the problem. He mentioned other ponds in various wards of south Albany and said he cannot vote for another pond in that area. He discussed mosquito issues and asked what is handicapped by Holloway not being complete. Mr. Maples stated that the point is to get rid of localized flooding in the City of Albany when there are rain downpours. Commissioner Postell commented on Madison, Broad, Jackson and the huge concrete blocks that were supposed to improve moving the water, which did not happen.

**PUBLIC ADMINISTRATION & FINANCE MATTERS**

CURRENT BID

Commissioner Howard moved to approve the following, seconded by Commissioner Postell; the motion unanimously carried.

1. Software Support Agreement, Metatomix, Inc., Dedham, MA

Total cost	\$167,850.00
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Commissioner Postell moved to approve the following, seconded by Commissioner Howard; the motion unanimously carried.

2. Camera System, State Contract

Total cost	\$154,275.00
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**PUBLIC FUNCTIONS MATTERS**

MATTERS FOR PUBLIC HEARING AND CONSIDERATION ON TUESDAY, JULY 27, 2010; 8:00 P.M., ROOM 100; GOVERNMENT CENTER BUILDING, 222 PINE AVENUE

The Clerk read for information:

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1. Zoning Case #10-077 – Mt. Zion Baptist Church/Owner; Bob Gage/Applicant; request to rezone 1804-1814 MLK, Jr., Dr., from C-R to C-2. (PC approved 8-0 **conditional**) WARD 6
2. Special Approval Case #10-079 – MK&S Realty Corp., Inc./Owner; Flint River Bible Fellowship/Applicant; request to use a church in the C-7 mixed use planned development district for property located at 1104 N. Westover Blvd. (PC approved 8-0) WARD 5

## HISTORIC PRESERVATION COMMISSION APPLICATIONS

Commissioner Marietta moved to approve, the following, seconded by Commissioner Langstaff; the motion unanimously carried.

1. Certificate of Appropriateness Case #10-072 – Bob Brooks/Owner; Eugene McCoy/Applicant; request to demolish property located at 124 Pine Ave. (HPC approved 5-0) WARD 3

Mayor Pro Tem Pike moved to approve the following, seconded by Commissioner Hubbard; the motion unanimously carried.

2. Certificate of Appropriateness Case #10-075 – Bob Brooks, Owner/Applicant; request to replace windows on property located at 211 Roosevelt Ave. (HPC approved 5-0) WARD 3

Mayor Pro Tem Pike moved to approve the following, seconded by Commissioner Hubbard; the motion unanimously carried.

3. Certificate of Appropriateness Case #10-080 – Terry Medlock, Owner/Applicant; request to re-establish a single family dwelling from a converted duplex to property located at 304 N. Madison St. (HPC approved 5-0) WARD 3

Mayor Pro Tem Pike moved to approve the following, seconded by Commissioner Hubbard; the motion unanimously carried.

4. Certificate of Appropriateness Case #10-082 – Alberta & Susie Keith, Owner/Applicant request to replace roof on property located at 419 Whitney Ave. (HPC approved 5-0) WARD 3

## ITEMS FOR FUTURE AGENDA

Commissioner Postell again mentioned a dress code for citizens in Albany pertaining to saggy pants, etc., with the issue being on enforcement. He said there is a public indecency law and asked where we are with this. Mr. Davis stated that it is on his list.

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EXECUTIVE SESSION

At 10:08 a.m., Commissioner Postell moved to enter into executive session to discuss personnel matters, seconded by Commissioner Hubbard, the motion unanimously carried as follows:

Ward I	yes
Ward II	yes
Ward III	yes
Ward IV	yes
Ward V	yes
Ward VI	yes
Mayor	yes

At 12:15 p.m., Commissioner Postell moved to exit executive session, seconded by Commissioner Marietta, the motion unanimously carried as follows:

Ward I	yes
Ward II	yes
Ward III	yes
Ward IV	yes
Ward V	yes
Ward VI	yes
Mayor	yes

There being no further discussion, the meeting adjourned at 12:15 p.m.

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SONJA TOLBERT  
CITY CLERK